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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FOUR

LELAND HILL,

Petitioner,

v.

THE SUPERIOR COURT OF SONOMA
COUNTY,

Respondent;

RICHARD ABEL et al.,

Real Parties in Interest.

A136423

(Sonoma County
Super. Ct. Nos. SCV 247315, SCV
249221)

THE COURT:*

Petitioner Leland Hill challenges an order from respondent superior court denying his motion for summary judgment. Hill contends the superior court failed to comply with the statutory requirement to identify triable issues of material fact. After reviewing Hill's petition for writ of mandate petition, we requested a response from real parties in interest (plaintiffs) and notified them we were considering issuing a peremptory writ in the first instance. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 180.) We

* Ruvolo, P.J., Rivera, J., Baskin, J.**

** Judge of the Contra Costa Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

received letters from plaintiffs stating they did not oppose the petition, although one group of plaintiffs did suggest granting the petition was an idle act.

Plaintiffs allege they relied on appraisals prepared by Hill in making a loan secured by real property. According to plaintiffs, Hill “grossly and significantly over-valued the subject property.” Plaintiffs asserted various causes of action against Hill and other defendants, including fraud, negligence, securities law violations, and financial abuse of an elder.

Hill moved for summary judgment on the ground his appraisals were protected by the litigation privilege. He claimed the appraisals had been prepared in connection with a bankruptcy proceeding. He moved in the alternative for summary adjudication on the securities law and elder abuse causes of action on the ground he was not a securities broker. He also argued he could not be liable for financial abuse of an elder because he was not aware of the identity of any potential investors in the real property, let alone whether they were elderly.

Respondent superior court issued a tentative ruling that stated: “ ‘Defendant Hill’s Motion for Summary Judgment, or in the Alternative Summary Adjudication, is denied in its entirety. Hill fails to meet his burden of showing that Civil Code section 47 shields him from liability, that he did not take part in a conspiracy to sell securities improperly or illegally, or that he did not knowingly take part in a conspiracy to defraud elders.’ ” At the hearing on the motion, the court adopted its tentative ruling as its final order. Counsel for Hill asked the court for clarification of its ruling, but the court responded: “At this time I’m not ready to discuss that.”

Code of Civil Procedure section 437c, subdivision (g), in pertinent part, provides:

Upon the denial of a motion for summary judgment, on the ground that there is a triable issue as to one or more material facts, the court shall, by written or oral order, specify one or more material facts raised by the motion as to which the court has determined there exists a triable controversy. This determination shall specifically refer to the evidence proffered in support of and in opposition to the motion which indicates that a triable controversy exists.

We agree with Hill that the superior court's order is lacking in the specificity required by section 437c, subdivision (g). The order fails to specify the triable issues of material fact, or the evidence the court relied upon to make its ruling. We note it is possible the superior court found the facts were undisputed and ruled against Hill as a matter of law, but that is not what the court's order states, and that is not what plaintiffs argued.

Preparing an order that complies with the summary judgment statute is not an idle act. "The value of [section 437c,] subdivision (g) is that it encourages the parties and the court to analyze the law before reaching the conclusion that disputed factual issues exist. In the course of identifying the disputed facts and specifying the conflicting evidence, the court may discover, for example, that the facts are not in conflict and that the motion should be either granted or denied on a point of law." (*Continental Ins. Co. v. Superior Court* (1985) 165 Cal.App.3d 1069, 1072.) We further believe a proper order in this case will help narrow the issues for trial or perhaps facilitate settlement.

Let a peremptory writ of mandate issue commanding respondent Sonoma County Superior Court to vacate its order denying the motion for summary judgment and to enter a new order that complies with the requirements of section 437c, subdivision (g). Hill shall recover his costs for this proceeding. (Cal. Rules of Court, rule 8.493(a).)